

## **INITIAL STATEMENT OF REASONS**

This Initial Statement of Reasons has been prepared relative to the proposal of the California New Motor Vehicle Board ("Board") to amend sections 551.14, 551.24, 555.1 and 584 of Articles 1, 2 and 5, Chapter 2, Division 1, of Title 13 of the California Code of Regulations.

### **INTRODUCTION**

The Board is an agency within the Department of Motor Vehicles ("Department") with oversight provided by the California State Transportation Agency. The Board consists of nine members, seven are appointed by the Governor, one by the Speaker of the Assembly, and one by the Senate Rules Committee. (Veh. Code, §§ 3000 and 3001.)

The duties of the Board including the following:

1. To adopt rules and regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code governing those matters that are specifically committed to its jurisdiction.
2. To hear and determine "appeals" which are filed by applicants for, or holders of, a specified type of occupational license as a result of adverse disciplinary action taken by the Department against the license of such entity. (Veh. Code §3050(b))
3. Consider any matter concerning the activities or practices of any person applying for or holding a specified type of occupational license. These disputes are considered by the Board as a result of the filing of a "petition", which may be done by any person. (Veh. Code §3050(c))
4. To hear and decide "protests" filed by new motor vehicle dealers against their respective franchisors, pursuant to the provisions of the Automotive Franchise Act. (Veh. Code §§ 3050(d), 3060, 3062, 3064, 3065, 3065.1, 3070, 3072, 3074, 3075, and 3076) These protests pertain to specified types of franchise disputes between the dealer (franchisee) and the manufacturer or distributor (franchisor).
5. The Board is also authorized to hear and decide protests filed by an association against a manufacturer or distributor in regard to violations of Vehicle Code section 11713.3(y), pertaining to Export or Sale-for-Resale Prohibition Policies (Veh. Code § 3085)

The Board is a quasi-judicial administrative agency with the independent authority to resolve disputes between franchised dealers and manufacturers or distributors of new

vehicles (includes, in part, cars, motorcycles, recreational vehicles, and all-terrain vehicles).

## **SECTION 551.14**

### **PURPOSE OF THE REGULATION**

The Board proposes to amend Section 551.14 to add reference to Code of Civil Procedure section 1013b pertaining to electronic service.

### **NECESSITY**

The regulatory change in Section 551.14 is necessary to ensure that the litigants or consumers that appear before the Board, or would like to appear before the Board, have the information necessary to effectively represent themselves or their clients. This amendment is necessary because the Board's current regulations reference California Code of Civil Procedure section 1013a which clarifies the methods for proof of service by mail. Code of Civil Procedure section 1013b was added, effective January 1, 2018, to clarify the methods for proof of electronic service. Since the Board's regulations reference electronic service, it is necessary to add the corresponding Code of Civil Procedure section to all references of electronic service.

## **SECTION 551.24**

### **PURPOSE OF THE REGULATION**

The Board proposes to amend Section 551.24 to add Section 1013b of the Code of Civil Procedure referred to in subdivision (a) pertaining to proof of electronic service. It also adds Section 1013b to the reference section of the regulation.

### **NECESSITY**

The regulatory changes in Section 551.24 are necessary to ensure that the litigants or consumers that appear before the Board, or would like to appear before the Board, have the information necessary to effectively represent themselves or their clients. These amendments are necessary because the Board's current regulations reference California Code of Civil Procedure section 1013a which clarifies the methods for proof of service by mail. Code of Civil Procedure section 1013b was added, effective January 1, 2018, to clarify the methods for proof of electronic service. Since the Board's regulations reference electronic service, it is necessary to add the corresponding Code of Civil Procedure section to all references of electronic service.

## **SECTION 555.1**

### **PURPOSE OF THE REGULATION**

The Board proposes to amend Section 555.1 to add Section 1013b of the Code of Civil Procedure pertaining to electronic service when serving a petition. It also adds Section 1013b to the reference section of the regulation.

### **NECESSITY**

The regulatory changes in Section 555.1 are necessary to ensure that the litigants or consumers that appear before the Board, or would like to appear before the Board, have the information necessary to effectively represent themselves or their clients. These amendments are necessary because the Board's current regulations reference California Code of Civil Procedure section 1013a which clarifies the methods for proof of service by mail. Code of Civil Procedure section 1013b was added, effective January 1, 2018, to clarify the methods for proof of electronic service. Since the Board's regulations reference electronic service, it is necessary to add the corresponding Code of Civil Procedure section to all references of electronic service.

## **SECTION 584**

### **PURPOSE OF THE REGULATION**

The Board proposes to amend Section 584 to add Section 1013b of the Code of Civil Procedure pertaining to electronic service when serving a protest. It also adds Section 1013b to the reference section of the regulation.

### **NECESSITY**

The regulatory changes in Section 584 are necessary to ensure that the litigants or consumers that appear before the Board, or would like to appear before the Board, have the information necessary to effectively represent themselves or their clients. These amendments are necessary because the Board's current regulations reference California Code of Civil Procedure section 1013a which clarifies the methods for proof of service by mail. Code of Civil Procedure section 1013b was added, effective January 1, 2018, to clarify the methods for proof of electronic service. Since the Board's regulations reference electronic service, it is necessary to add the corresponding Code of Civil Procedure section to all references of electronic service.

### **ECONOMIC IMPACT ASSESSMENT/ANALYSIS**

#### **IMPACT ON JOBS/NEW BUSINESSES:**

The Board has determined that the proposed regulation will not have an impact on the creation of new jobs or businesses, the elimination of any jobs or existing businesses,

or the expansion of businesses currently doing business in California. The proposed regulation only impacts licensed new motor vehicle dealers, manufacturers, and distributors within the Board's jurisdiction that file a Protest or Petition with the Board or consumers that may file a request for informal mediation. This includes approximately 1,500 to 2,000 new car, motorcycle, all-terrain vehicle, low-speed vehicle and recreational vehicle dealers and approximately 150-200 manufacturers or distributors. In the last 10 years, there have been on average 45 protests filed per year and a petition has not been filed with the Board since 2015. Informal mediation was last requested in 2000.

#### **BENEFITS OF PROPOSED REGULATION:**

Electronic service is being added for compatibility with the Code of Civil Procedure so that litigants that appear before the Board have the information necessary to effectively represent themselves or their clients. This means the Board will continue to quickly and economically resolve statutorily enumerated disputes between new motor vehicle dealers (franchisees) and their manufacturers or distributors (franchisors). The Board keeps these types of cases from further clogging our already congested courts. Additionally, the Board issues uniform orders and decisions throughout California thereby allowing franchisors and their dealers to conduct their business in compliance with California law. There are no known benefits to the Board of this proposed regulation to the health and welfare of California residents, worker safety and the state's environment.

#### **TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS**

The Board relied on the following documents in drafting and proposing the adoption of the proposed regulation:

- (1) Memorandum dated February 20, 2018, from Timothy M. Corcoran and Robin Parker to the Policy and Procedure Committee regarding the Consideration of Proposed Regulation

#### **REASONABLE ALTERNATIVES TO THE REGULATION AND THE AGENCY'S REASONS FOR REJECTING THOSE ALTERNATIVES**

Prior to the publication of this notice, the Board considered and adopted the proposed regulation at a noticed General Meeting held on March 13, 2018. Twelve days prior to the meeting, a detailed agenda including the consideration of the proposed text of the regulation was mailed to all individuals and entities on the Board's Public Mailing list, Electronic Public Mailing list, and website subscription list. The agenda was also posted on the Board's website.

No comments by the public were received at the March 13, 2018, General Meeting, and no further public discussion was held prior to publication of the notice.

## **REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS**

The Board has determined that the proposed regulation will have no effect on small businesses. This determination was made because no small businesses are legally required to comply with the regulation, are legally required to enforce the regulation, or derive a benefit from or incur an obligation from the enforcement of the regulation.

## **EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS**

There are no associated costs with the proposed regulatory amendments; they clarify electronic service procedure for franchised new motor vehicle dealers and their franchisors (new motor vehicle manufacturers or distributors) who choose to file a protest or petition with the Board and consumers who may choose to file a request for informal mediation.